

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MOTIO, INC.

V.

BSP SOFTWARE LLC,
BRIGHTSTAR PARTNERS, INC.,
and AVNET, INC.

§
§
§
§
§
§

CASE NO. 4:12-CV-647
Judge Mazzant

MEMORANDUM OPINION AND ORDER

Pending before the Court is Defendants’ Motion for Judgment on the Pleadings Due to Failure to Claim Patent-Eligible Subject Matter under 35 U.S.C. § 101 (Dkt. #122). After reviewing the relevant pleadings, the Court finds that the motion should be denied.

BACKGROUND

Plaintiff asserts that Defendants infringe claims of U.S. Patent No. 8,285,678 (“the ’678 Patent”). The ’678 Patent is titled “Continuous integration of business intelligence software.” It was filed on December 30, 2010, and issued on October 9, 2012. The ’678 Patent relates to methods of providing automatic version control to a business intelligence system. ’678 Patent at Abstract. Plaintiff filed suit for infringement of the ’678 Patent on October 10, 2012 (Dkt. #1).

On June 18, 2015, Defendants filed a motion for judgment on the pleadings (Dkt. #121). The following day, June 19, 2015, Defendants filed the present motion as an amended motion for judgment on the pleadings (Dkt. #122). Plaintiff filed a response on July 27, 2015 (Dkt. #137). On August 7, 2015, Defendants filed a reply brief (Dkt. #142), and on August 17, 2015, Plaintiff filed a sur-reply (Dkt. #144).

LEGAL STANDARD

Defendant brings its motion under Federal Rule of Civil Procedure 12(c). The standard for deciding a Rule 12(c) motion for judgment on the pleadings is the same as a Rule 12(b)(6) motion to dismiss. *Guidry v. American Public Life Ins. Co.*, 512 F.3d 177, 180 (5th Cir. 2007). In examining a motion for judgment on the pleadings, therefore, the court must accept as true all well-pleaded facts contained in the plaintiff's complaint and view them in the light most favorable to the plaintiff. *Baker v. Putnal*, 75 F.3d 190, 196 (5th Cir. 1996).

A claim will survive if it “may be supported by showing any set of facts consistent with the allegations in the complaint.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 563, 127 S. Ct. 1955, 1969, 167 L. Ed.2d 929 (2007). In other words, a claim may not be dismissed based solely on a court's supposition that the pleader is unlikely “to find evidentiary support for his allegations or prove his claim to the satisfaction of the factfinder.” *Id.* at 563 n.8.

Although detailed factual allegations are not required, a plaintiff must provide the grounds of his entitlement to relief beyond mere “labels and conclusions,” and “a formulaic recitation of the elements of a cause of action will not do.” *Id.* at 555. The complaint must be factually suggestive, so as to “raise a right to relief above the speculative level” and into the “realm of plausible liability.” *Id.* at 555, 557 n.5. “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937, 1949, 173 L. Ed.2d 868 (2009) (quoting *Twombly*, 550 U.S. at 570, 127 S. Ct. 1955). For a claim to have facial plausibility, a plaintiff must plead facts that allow the court to draw the reasonable inference that the defendant is liable for the alleged misconduct. *Gonzalez v. Kay*, 577 F.3d 600, 603 (5th Cir. 2009). Therefore, “where the well-pleaded facts do not permit the court to infer more than the mere

possibility of misconduct, the complaint has alleged – but it has not shown – that the pleader is entitled to relief.” *Id.* (internal quotations omitted).

A district court may consider documents attached to a motion to dismiss only if the documents are referred to in the plaintiff’s complaint and are central to the plaintiff’s claims. *Scanlan v. Texas A & M Univ.*, 343 F.3d 533, 536 (5th Cir. 2003) (citing *Collins v. Morgan Stanley Dean Witter*, 224 F.3d 496, 498-99 (5th Cir. 2000)); *see also Causey v. Sewell Cadillac-Chevrolet*, 394 F.3d 285, 288 (5th Cir. 2004). The Fifth Circuit has also held that courts are permitted to refer to matters of public record when deciding a motion to dismiss under Rule 12(b)(6). *Cinel v. Connick*, 15 F.3d 1338, 1343 n.6 (5th Cir. 1996). “[T]aking judicial notice of public records directly relevant to the issue in dispute is proper on a Rule 12(b)(6) review and does not transform the motion into one for summary judgment.” *Motten v. Chase Home Fin.*, 2011 WL 2566092 at *2 (S.D. Tex. 2011) (citing *Funk v. Stryker Corp.*, 631 F.3d 777, 780 (5th Cir. 2011)).

ANALYSIS

After reviewing the current complaint, the motion for judgment, the response, the reply, and the sur-reply, the Court finds that Plaintiff has stated plausible claims for purposes of defeating a Rule 12(c) motion.

CONCLUSION

It is therefore **ORDERED** that Defendants’ Motion for Judgment on the Pleadings Due to Failure to Claim Patent-Eligible Subject Matter under 35 U.S.C. § 101 (Dkt. #122) is hereby **DENIED**.

SIGNED this 8th day of January, 2016.

A handwritten signature in black ink, reading "Amos Mazzant". The signature is written in a cursive style with a horizontal line underneath it.

AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE